

PROVIDING FOR CONSIDERATION OF H.R. 1270, THE  
NUCLEAR WASTE POLICY ACT OF 1997

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OCTOBER 28, 1997.—Referred to the House Calendar and ordered to be printed

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Mr. HASTINGS of Washington, from the Committee on Rules,  
submitted the following

REPORT

[To accompany H. Res. 283]

The Committee on Rules, having had under consideration House Resolution 283, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

BRIEF SUMMARY OF PROVISIONS OF RESOLUTION

The resolution provides for consideration of H.R. 1270, the “Nuclear Waste Policy Act of 1997,” under a structured rule waiving points of order against consideration of the bill for failure to comply with section 306 of the Congressional Budget Act of 1974 (requiring provisions in the jurisdiction of the Committee on the Budget to be referred to or reported by the Committee on the Budget).

The rule provides one hour of general debate equally divided and controlled by the chairman and the ranking minority member of the Committee on Commerce and 20 minutes of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Resources. The rule further provides for consideration of the amendment in the nature of a substitute recommended by the Committee on Commerce as an original bill for the purpose of amendment.

The rule also waives points of order against the committee amendment in the nature of a substitute for failure to comply with clause 5(a) of rule XXI (prohibiting appropriations in authorization measures) or section 306 of the Congressional Budget Act of 1974.

Notwithstanding clause 5(c) of rule XXIII (relating to motions to strike unfunded mandates), the rule provides for consideration of only those amendments printed in this report. These amendments may only be offered in the order listed in the report and only by the Member designated in the report, shall be considered as read,

shall be debatable for the time specified in the report equally divided and controlled by a proponent and an opponent, shall not be subject to amendment and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. The rule waives points of order against the last amendment printed in this report for failure to comply with clause 5(a) of rule XXI or section 306 of the Congressional Budget Act of 1974.

The Chairman of the Committee of the Whole is allowed to reduce the voting time on any postponed question to five minutes provided that vote follows a fifteen minute vote. The rule further provides that after a motion that the Committee rise has been rejected on a day, the Chairman may entertain another such motion on that day only if offered by the Majority Leader or his designee. Also after a motion to strike out the enacting words of the bill (as described in clause 7 of rule XXIII) has been rejected, the Chairman may not entertain another such motion during further consideration of the bill. The rule also provides one motion to recommit with or without instructions.

In addition the rule waives points of order against consideration in the House of S. 104 for failure to comply with section 306 of the Congressional Budget Act of 1974. The rule provides for consideration of a motion to strike all after the enacting clause of S. 104 and to insert in lieu thereof the provisions of H.R. 1270, as passed by the House. Finally, the rule provides further that upon the adoption of the motion and the Senate bill as amended, it is in order to move that the House insist on its amendment to S. 104 and request a conference thereon.

SUMMARY OF AMENDMENTS MADE IN ORDER BY THE RULE FOR H.R.  
1270—THE NUCLEAR WASTE POLICY ACT OF 1997

(Listed in the order they will appear in this report)

1. Schaefer—10 mins.: Manager's Amendment.
2. Kildee—10 mins.: Ensures that Indian tribes will be included in the consultation process; allows tribes to be treated fairly in the situation under the current House definition under which no Indian tribes in Nevada will qualify for treatment as an "affected Indian tribe".
3. Traficant—10 mins.: States that only nuclear waste produced in the United States can be stored at any repository established in H.R. 1270.
4. Ensign—20 mins.: Ensures that a risk assessment study and a cost benefit analysis are conducted prior to any action being taken under this Act.
5. Gibbons—20 mins.: The Governor of each State, with nuclear waste routes, shall certify that "emergency response teams" exist and can properly manage any nuclear accident before transportation plans can be implemented by the Secretary.
6. Ensign—20 mins.: Requires that before any shipments could occur, the Congress must have appropriated sufficient funds to ensure adequate emergency response teams along the transportation route.

7. Markey—20 mins.: Relates to licensing standards. Strikes provisions of H.R. 1270 that prevent the EPA from setting health-based radiation protection standards.

8. Gibbons—20 mins.: Deletes the 1 mill cap and gives the Secretary of Energy the authority to assess a fee on the existing reactors to reflect the amount of funding that is needed in a given year to cover the costs of operation.

9. Traficant—10 mins.: Buy American amendment. Sense of Congress that all material and services purchased relative to this bill should be from the U.S.; provides all recipients of contracts under the bill a notice of the first portion of the amendment; and prohibits anyone who has been found guilty of falsely labeling an item as being Made in America from receiving contracts under this bill.

10. Millender-McDonald—30 mins.: Amendment in the nature of a substitute. Amends the committee reported language by: striking all sections of the bill except Title IV; striking the provisions in current law prohibiting the citing of an interim storage facility in Nevada; authorizes the Secretary to establish an interim storage facility at Yucca Mountain, Nevada so long as Yucca Mountain is approved as the site for a permanent repository pursuant to Sec. 114 of the current law.

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE DAN SCHAEFER OF COLORADO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 19, line 2, insert before the period the following:

, using routes that minimize, to the maximum practicable extent and consistent with Federal requirements governing transportation of spent nuclear fuel and high-level radioactive waste through populated areas

Page 19, beginning in line 3, strike “In conjunction with” and insert the following:

“(1) IN GENERAL.—In conjunction with” and add after line 16 on page 19 the following:

“(2) RAIL ROUTES.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall establish procedures for the selection of preferred rail routes for the transportation of spent nuclear fuel and high level radioactive waste to the interim storage site and the repository site. Such procedures shall be established in consultation with the designated emergency services planning management official for any State or Indian tribe affected by the rail routes selected.

Page 20, line 17, strike “EMPLOYEE” and insert “CERTAIN” and in line 20 strike “employee”.

Page 24, line 16, strike “regulations promulgated by the Commission” and insert “existing Federal regulations”.

Page 25, beginning on line 1, strike “The” and all that follows through “paragraph (1)” on line 3 and insert “If training standards are required to be promulgated under paragraph (1), such standards”.

Page 25, line 5, strike “include the following provisions—” and insert “provide for—”.

Page 25, after line 19, insert the following: “Secretary of Transportation may specify an appropriate combination of knowledge, skills, and prior training to fulfill the minimum number of hours requirements of subparagraphs (A) and (B).”.

Page 43, strike lines 17 and all that follows through line 13 on page 44, and insert the following:

**“SEC. 207. APPLICABILITY.**

“Nothing in this Act shall affect the application of chapter 51 of title 49, United States Code; part A of subtitle V of title 49, United States Code; part B of subtitle VI of title 49, United States Code; and title 23, United States Code.”.

Page 81, after line 13, insert the following:

**“SEC. 510. SEPARABILITY.**

“If any provision of this Act, or the application of such provision to any person or circumstances, is held to be invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.”.

In the table of contents—

- (1) in the item relating to section 207 amend the heading to read as follows: “Applicability”; and
- (2) add at the end of title V the following:

“Sec. 510. Separability.

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2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE KILDEE OF MICHIGAN, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 4, strike line 11 and all that follows through page 5 line 11, and insert the following:

“(3) AFFECTED INDIAN TRIBE.—The term affected Indian tribe’ means an Indian tribe whose reservation is surrounded by or borders on an affected unit of local government, or whose federally-defined possessory or usage rights to other lands outside of the border of the Indian tribe’s reservation arising out of Congressionally-ratified treaties may be affected by the locating of an interim storage facility or repository, if the Secretary finds, upon petition of the appropriate government officials of the Indian tribe, that such affects are both substantial and adverse to the Indian tribe.

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3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TRAFICANT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 7, line 14, strike “reprocessing” and insert “reprocessing in the United States”, beginning in line 20 strike “activities” and insert “activities in the United States, and in line 21, strike “material” and insert “material in the United States”.

Page 11, line 14, strike “reactor” and insert “reactor in the United States”.

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4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ENSIGN OF NEVADA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 15, insert after line 8 the following:

“(e) RISK ASSESSMENT AND COST BENEFIT.—The Secretary shall not take any action under this Act unless the Secretary has with respect to such action conducted a risk assessment which is scientifically objective, unbiased, and inclusive of all relevant data and relies, to the extent available and practicable, on scientific findings and which is grounded in cost-benefit principles.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GIBBONS OF NEVADA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 19, insert after line 16 the following:

“(e) EMERGENCY RESPONSE TEAM.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste through any State unless the Governor of such State can certify that an adequate emergency response team exists in such State to appropriately manage any nuclear accident that may occur in such transportation.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE ENSIGN OF NEVADA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 19, insert after line 16 the following:

“(c) EMERGENCY RESPONSE.—The Secretary may not plan for the transportation of spent nuclear fuel or high-level radioactive waste in a fiscal year for which funds appropriated under section 203(c) are insufficient (as determined by the Federal Emergency Management Agency) to ensure adequate and trained emergency response teams along all the transportation routes to be used in such fiscal year.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MARKEY OF MASSACHUSETTS, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 36, strike line 18 and all that follows through line 9 on page 39.

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GIBBONS OF NEVADA, OR A DESIGNEE, DEBATABLE FOR 20 MINUTES

Page 55, beginning in line 3 strike “, except that” and all that follows through line 21 and insert a period.

9. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TRAFICANT OF OHIO, OR A DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 81, insert after line 13 the following:

“SEC. 510. PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.

“(a) IN GENERAL.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased

with funds made available under this Act should be American-made.

“(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available under this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

“(c) PROHIBITION OF CONTRACTS WITH PERSONS FALSELY LABELING PRODUCTS AS MADE IN AMERICA.—If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a “Made in America” inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, the person shall be ineligible to receive any contract or subcontract made with funds made available under this Act, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

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10. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MILLENDER-MCDONALD OF CALIFORNIA, OR A DESIGNEE, DEBATABLE FOR 30 MINUTES

Strike all after the enacting clause and insert the following:

**SECTION. 1. PROGRAM FUNDING.**

(a) CONTRACTS.—

(1) AUTHORITY OF SECRETARY.—The Secretary of Energy (hereafter referred to as the “Secretary”) is authorized to enter into contracts with any person who generates or holds title to spent nuclear fuel or high-level radioactive waste of domestic origin for the acceptance of title and possession, transportation, interim storage, and disposal of such spent fuel or waste upon the payment of fees in accordance with paragraphs (2) and (3). Except as provided in paragraph (3), fees assessed pursuant to this paragraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

(2) ANNUAL FEES.—

(A) ELECTRICITY.—

(i) IN GENERAL.—Under a contract entered into under paragraph (1) there shall be a fee for electricity generated by civilian nuclear power reactors and sold on or after the date of enactment of this Act. The aggregate amount of such fees collected during each fiscal year shall be no greater than the annual level of appropriations for expenditures under the Nuclear Waste Policy Act of 1982 for that fiscal year, minus—

(I) any unobligated balance of fees collected during the previous fiscal year; and

(II) such appropriations required to be funded by the Federal Government pursuant to section 3.

(ii) FEE LEVEL.—The Secretary shall determine the level of the annual fee for each civilian nuclear power reactor based on the amount of electricity generated

and sold, except that for the period commencing with fiscal year 1999 and continuing through the fiscal year in which disposal at the repository under the Nuclear Waste Policy Act of 1982 commences—

(I) the average annual fee collected under this subparagraph shall not exceed 1.0 mill per-kilowatt hour generated and sold; and

(II) the fee in any fiscal year in such period shall not exceed 1.5 mill per kilowatt hour generated and sold.

Thereafter, the annual fee collected under this subparagraph shall not exceed 1.0 mill per-kilowatt hour generated and sold. Fees assessed pursuant to this subparagraph shall be paid to the Treasury of the United States and shall be available for use by the Secretary pursuant to this section until expended.

(B) EXPENDITURES IF SHORTFALL.—If, during any fiscal year, the aggregate amount of fees assessed pursuant to subparagraph (A) is less than the annual level of appropriations for expenditures on those activities specified in subsection (d) for that fiscal year, minus—

(i) any unobligated balance collected pursuant to this section during the previous fiscal year, and

(ii) such appropriations required to be funded by the Federal Government pursuant to section 3, the Secretary may make expenditures from the Nuclear Waste Fund up to the level of appropriations.

(C) RULES.—The Secretary shall, by rule, establish procedures necessary to implement this paragraph.

(3) ONE-TIME FEES.—The one-time fees collected under contracts executed under section 302(a) of the Nuclear Waste Policy Act of 1982 before the date of enactment of this Act on spent nuclear fuel, or high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor before April 7, 1983, shall be paid to the Nuclear Waste Fund. The Secretary shall collect all such fees before the expiration of fiscal year 2002. The Commission shall suspend the license of any licensee who fails or refuses to pay the full amount of the fee referred to in this paragraph and the license shall remain suspended until the full amount of the fee referred to in this paragraph is paid. In paying such a fee, the person delivering such spent nuclear fuel or high-level radioactive wastes, to the Secretary shall have no further financial obligation under this paragraph to the Federal Government for the long-term storage and permanent disposal of such spent nuclear fuel or high-level radioactive waste.

(b) ADVANCE CONTRACTING REQUIREMENT.—

(1) IN GENERAL.—

(A) LICENSE ISSUANCE AND RENEWAL.—The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract under subsection (a) with the Secretary; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under subsection (a).

(B) PRECONDITION.—The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of spent nuclear fuel and high-level radioactive waste that may result from the use of such license.

(2) DISPOSAL IN REPOSITORY.—Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in the repository under the Nuclear Waste Policy Act of 1982 unless the generator or owner of such spent fuel or waste has entered into a contract under subsection (a) with the Secretary by not later than the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste.

(3) ASSIGNMENT.—The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

(4) DISPOSAL CONDITION.—No spent nuclear fuel or high-level radioactive waste generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored or disposed of by the Secretary at the interim storage facility or repository developed under the Nuclear Waste Policy Act of 1982 unless, in each fiscal year, such department funds its appropriate portion of the costs of such storage and disposal as specified in section 3.

(c) NUCLEAR WASTE FUND.—

(1) IN GENERAL.—The Nuclear Waste Fund established in the Treasury of the United States under section 302(c) of the Nuclear Waste Policy Act of 1982 shall continue in effect under this Act and shall consist of—

(A) all receipts, proceeds, and recoveries realized by the Secretary before the date of enactment of this Act;

(B) any appropriations made by the Congress before the date of enactment of this Act to the Nuclear Waste Fund;

(C) all interest paid on amounts invested by the Secretary of the Treasury under paragraph (3)(B); and

(D) the one-time fees collected pursuant to subsection (a)(3).

(2) USE.—The Nuclear Waste Fund shall be used only for purposes of an interim storage facility at Yucca Mountain, Nevada and the repository at Yucca Mountain, Nevada and otherwise carrying out the Nuclear Waste Policy Act of 1982.

(3) ADMINISTRATION OF NUCLEAR WASTE FUND.—



(A) IN GENERAL.—The Secretary of the Treasury shall hold the Nuclear Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Nuclear Waste Fund during the preceding fiscal year.

(B) AMOUNTS IN EXCESS OF CURRENT NEEDS.—If the Secretary determines that the Nuclear Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(i) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Nuclear Waste Fund; and

(ii) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(C) EXEMPTION.—Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Nuclear Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(d) USE OF APPROPRIATED FUNDS.—During each fiscal year, the Secretary may make expenditures of funds collected after the date of enactment of this Act under this section and section 3, up to the level of appropriations for that fiscal year pursuant to subsection (f) only for purposes of an interim storage facility at Yucca Mountain, Nevada and the repository at Yucca Mountain, Nevada.

(e) PROHIBITION ON USE OF APPROPRIATIONS AND NUCLEAR WASTE FUND.—The Secretary shall not make expenditures of funds collected pursuant to this section or section 3 to design or construct packages for the transportation, storage, or disposal of spent nuclear fuel from civilian nuclear power reactors.

(f) APPROPRIATIONS.—

(1) BUDGET.—The Secretary shall submit the budget for implementation of the Secretary's responsibilities under this Act to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget shall consist of the estimates made by the Secretary of expenditures under this Act and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the budget of the United States Government.

(2) APPROPRIATIONS.—Appropriations shall be subject to triennial authorization. During each fiscal year, the Secretary may make expenditures, up to the level of appropriations, out of the funds collected pursuant to this section and section 3, if the Secretary transmits the amounts appropriated for imple-

mentation of this Act to the Commission and the Nuclear Waste Technical Review Board in appropriate proportion to the collection of such funds.

(g) EFFECTIVE DATE.—This section shall take effect October 1, 1998.

## **SEC. 2. OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.**

(a) CONTINUATION OF OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT.—The Office of Civilian Radioactive Waste Management established under section 304(a) of the Nuclear Waste Policy Act of 1982 as constituted prior to the date of enactment of this Act, shall continue in effect subsequent to the date of enactment of this Act.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) AUDITS.—

(1) STANDARD.—The Office of Civilian Radioactive Waste Management, its contractors, and sub-contractors at all tiers, shall conduct, or have conducted, audits and examinations of their operations in accordance with the usual and customary practices of private corporations engaged in large nuclear construction projects consistent with its role in the program.

(2) TIME.—The management practices and performances of the Office of Civilian Radioactive Waste Management shall be audited every 5 years by an independent management consulting firm with significant experience in similar audits of private corporations engaged in large nuclear construction projects. The first such audit shall be conducted 5 years after the date of enactment of this Act.

(3) COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

(4) TIME.—No audit contemplated by this subsection shall take longer than 30 days to conduct. An audit report shall be issued in final form no longer than 60 days after the audit is commenced.

(5) PUBLIC DOCUMENTS.—All audit reports shall be public documents and available to any individual upon request.

## **SEC. 3. DEFENSE CONTRIBUTION.**

(a) ALLOCATION.—No later than one year from the date of enactment of this Act, acting pursuant to section 553 of title 5, United States Code, the Secretary shall issue a final rule establishing the appropriate portion of the costs of managing spent nuclear fuel and high-level radioactive waste under this Act allocable to the interim storage or permanent disposal of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent

nuclear fuel from foreign research reactors. The share of costs allocable to the management of spent nuclear fuel, high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors shall include—

(1) an appropriate portion of the costs associated with research and development activities with respect to development of the interim storage facility and repository; and

(2) interest on the principal amounts due calculated by reference to the appropriate Treasury bill rate as if the payments were made at a point in time consistent with the payment dates for spent nuclear fuel and high-level radioactive waste under the contracts.

(b) APPROPRIATION REQUEST.—In addition to any request for an appropriation from the Nuclear Waste Fund, the Secretary shall request annual appropriations from general revenues in amounts sufficient to pay the costs of the management of materials described in subsection (a).

(c) REPORT.—The Secretary shall advise the Congress annually of the amount of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities, and spent nuclear fuel from foreign research reactors requiring management in the interim storage facility and the repository.

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary, from general revenues, for carrying out the purposes of this Act, such sums as may be necessary to pay the costs of the management of spent nuclear fuel and high-level radioactive waste from atomic energy defense activities as established under subsection (a).

#### **SEC. 4. INTERIM STORAGE.**

(a) LIMITATIONS.—Subsection (g) of section 141 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10161) is repealed.

(b) AUTHORITY.—Section 145 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10165) is amended to read as follows:

##### **“INTERIM STORAGE SITE**

“SEC. 145. (a) IN GENERAL.—The Secretary is authorized to establish at Yucca Mountain, Nevada a monitored retrievable storage facility so long as Yucca Mountain is the site for the repository. The Secretary shall conduct such site specific activities at Yucca Mountain as the Secretary determines may be necessary to support an application to the Commission for a license to construct the monitored retrievable storage facility.

“(b) ENVIRONMENTAL ASSESSMENT.—Site specific activities and the use of the Yucca Mountain site for a monitored retrievable storage facility shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare an environmental assessment with respect to the Yucca Mountain site in accordance with regulations of the Secretary implementing such Act. Such environmental assessment shall be based upon available information regarding the alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste.”.

**SEC. 5. CONFORMING AMENDMENT.**

Section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C 10222) is repealed.

